

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LEO L. DURAN,

Applicant,

v.

CV 11-0816 JB/GBW

WARDEN LAWRENCE JARAMILLO,
D.O.C. OF NEW MEXICO,
ATTORNEY GENERAL BRUCE [sic] KING,

Respondent.

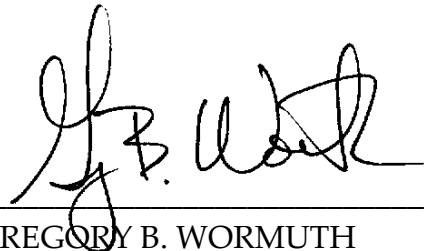
ORDER

THIS MATTER comes before the court on Petitioner's Opposed Motion for Leave to Amend the Petition Filed September 12, 2011 and to Expand the Evidentiary Hearing. *Doc. 43*. Petitioner seeks to add a claim that his trial counsel received a written plea offer but failed to present it to Petitioner. At this time, the evidentiary hearing is three weeks away. The Court is not yet prepared to rule on whether Petitioner will be permitted to amend his Petition. Nonetheless, as a matter of efficiency, it makes sense to permit a limited expansion of the hearing in the event that the Court permits the amendment.

Therefore, for all witnesses who will testify on the insanity defense issue, the Court will also permit testimony on the issue of the plea offer. To be clear, witnesses

who are not testifying on the issue of the insanity defense will not be permitted to testify solely on the plea agreement issue. If the Court permits the amendment, the parties will be permitted to put on additional evidence on the plea agreement issue at a separate hearing. Conversely, for the witnesses that do testify at the hearing on September 25th, the parties should present all testimony relevant to both issues as the Court will not permit any further testimony from them at a second hearing if one is held.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is written over a horizontal line.

GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE